IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26-4-2007

Coram

The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

W.P.Nos.12721, 12722, 12723 and 12795 of 2000

L. Subramania Reddy ... Petitioner in W.P.12721/2000

V.S. Venkatesan ... Petitioner in W.P.12722/2000

M. Babu ... Petitioner in W.P.12723/2000

D. Nagabooshanam }
}
Ravichandra Reddy } ... Petitioners in W.P.12795/2000

Vs.

1. The Deputy Salt Commissioner,
Shastri Bhavan,
Chennai - 600 006.

2. The Tamilnadu Industrial Development
Corporation Ltd.,
rep.by its General Manager,
19-A Marshalls Road,
Egmore,
Chennai - 600 008. ... Respondents in all petitions

These writ petitions have been filed under Article 226 of Constitution of India, praying this court to issue a writ of Mandamus directing the second respondent to pay compensation to the petitioners in respect of the lands taken over by the second respondent which had been leased out to the petitioners by the first respondent under registered Lease Deed and covered under Salt manufacturing Licence No.41, 15, 42 and 29 datd 8.7.88,20.4.88 and 5.6.89.respectively.

WEB COPY

For Petitioners :Mr.T.R.Rajagopalan,
Senior Counsel
for Mr.G.Jeremiah

For 1st Respondent :Mr.K.Ravindranath, SCGSC

For 2nd Respondent :Mr.Ranganathan
for M/s.King & Partridge

https://hcservices.ecourts.gov.in/hcservices/

COMMON ORDER

Petitioners in these writ petitions seek a direction to the second respondent to pay compensation to them in respect of the lands taken over by the second respondent, which had been leased out to the petitioners by the first respondent under registered Lease Deeds and covered under Salt manufacturing Licence No.41, 15, 42 and 29 respectively.

2. Since the issue involved in all these writ petitions are common and the facts are also identical, all these writ petitions are disposed of by this common order.

3. The brief facts necessary for disposal of these writ petitions are as follows.

(a) The petitioners were granted lease by the first respondent by separate lease deeds for certain extent of lands in Athipattu village, Ponneri Taluk, for manufacture of salt. The period of lease was from 1.1.1988 to 31.12.2007 in W.P.Nos.12721 to 12723/2000 and from 1.1.1988 to 8.10.2005 in W.P.No.12795/2000. Petitioners were also granted licences for the manufacture of salt issued under the Central Excise Rules, 1944 and the licences are valid upto 31.12.2007 in W.P.Nos.12721 to 12723/2000, and upto 8.10.2005 in W.P.No.12795/2000. The said lands belong to the Government of India and the petitioners were paying annual ground rent and they produced maximum quantity of salt per acre. Some of the petitioners were even granted lease prior to 1998. Petitioners, for the manufacture of salt, spent huge amounts for levelling their respective lands leased out and prepared salt pans.

(b) In the year 1998, North Madras Thermal Power Project was established at Ennore and therefore petitioners could not produce salt as the fly from the Thermal Power Station used to discolour the salt and it turned to blackish in colour. Apart from the said difficulty, there were lack of cheap labour and boats and also due to availability of free iodised salt, petitioners could not majufacture salt. However, they continued to pay the rent.

(c) On 25.2.1999, petitioners received an order from the first respondent stating that the lease granted to them is terminated for the breach of condition No.22 and the petitioner's were required to pay the annual rent. Immediately after the receipt of order of termination, petitioners sent demand drafts for the amounts due to the first respondent and requested the first respondent to withdraw the order cancelling the lease and therefore petitioners continued in the possession of the leasehold lands. Petitioners also submitted representations to the Salt Commissioner at Jaipur and on 10.4.1999 No Due Certificates were also issued.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

(d) The first respondent by communication dated 29.1.1999 informed the petitioners that the Government of India, had decided to transfer the lands leased out to the petitioners to TIDCO, the second respondent herein and the lessees will be paid compensation and possession would not be handed over to the second respondent until compensation is paid to the lessees. In view of the said communication, petitioners were under the bona fide impression that the earlier order determining lease had been revoked.

(e) On 23.3.1999 the second respondent called upon the petitioners for a meeting to be held on 30.3.1999 for the purpose of verifying the lease deeds and to determine the quantum of compensation. It was also informed that if anyone fail to attend the meeting their lands would be resumed. Petitioners attended the meeting on 30.3.1999 and the quantum of compensation payable was also determined and thereafter petitioners surrendered the lands to the representatives of the first respondent, who in turn handed over the lands to the second respondent. However, the second respondent subsequently refused to pay the compensation on the ground that the petitioners lease were determined by the first respondent on 25.2.1999, 23.9.1998, 16.11.1998 and 6.10.1998 respectively. According to the petitioners, the said stand of the second respondent is contrary to the communication issued by the first respondent dated 24.3.1999 and the petitioners having been dispossessed of the salt pans, which they have made by spending huge amounts in their respective leasehold lands and having not received the compensation, filed these writ petitions for issuance of a writ of mandamus.

4. First respondent filed counter affidavit wherein it is stated that since the petitioners have breached the lease deed condition No.22 and defaulted in payment of rent, the respective lease was cancelled. Petitioners' application for reconsideration were pending. The Government of India, Ministry of Industries (Department of Industrial Policy and Promotion) by communication dated 6.1.1999 addressed to the Salt Commissioner, Jaipur, conveyed the approval of the Government of India to the transfer of Salt Department land measuring 1434 Hectares to the Government of Tamil Nadu/TIDCO Ltd., for establishment of Petro Chemical Industrial Park at Ennore near Chennai including the lands leased out to the petitioners herein. Letters were also issued to various salt licensees of the Salt Department as well as to the second respondent on 29.1.1999 mentioning the licence numbers and stated that the above said lands could be taken over by the department for handing over to TIDCO as soon as TIDCO confirms that they had paid the compensation to all licensees. The second respondent thereafter wrote letters to the petitioners and requested the petitioners to come to TIDCO office on 30.3.1999 and determined the amount of compensation payable to each of the petitioners and therefore the decision of the first respondent was accepted and acted upon by the second respondent and only a formality of accepting the compensation and effectuating the transfer by handing over possession remain. It is submitted in the counter affidavit that in spite of cancellation of lease, the leasehold lands were to be handed over only

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

after receipt of compensation and it could not matter whether there was any lease subsisting or to be cancelled. It is further stated that cancellation of lease granted in favour of the petitioners are not relevant to the issue for the payment of compensation and cannot be taken advantage of by the TIDCO to withhold the compensation to the petitioners.

It is again stated in the counter affidavit that the Government of India in its order dated 6.1.1999 imposed condition, particularly condition No.3 and stated that the State Government/TIDCO shall pay compensation to the lessees for extinguishing the leasehold rights, which TIDCO and lessees may arrive at their mutual negotiations and the legal case arising out of the transfer should also be taken care of and defended by the TIDCO/State Government at their costs. Citing the said order, the first respondent states that the Salt Department should not be dragged on for payment of compensation and TIDCO also agreed through its letter dated 4.11.1999 to comply with the condition mentioned above. The second respondent also is bound to pay Rs.35,000/- per acre provisionally.

5. The second respondent filed common counter affidavit and the objection raised therein is that the lease granted in favour of the petitioners were terminated for non-payment of rental arrears and therefore they have no locus standi to make any claim against the second respondent to claim compensation.

6. The learned counsel for the petitioner submitted that the lease granted, even though was terminated, petitioners have paid their rental dues and prayed for reconsideration of cancellation of lease and during the pendency of the said application for reconsideration, Government of India took a decision to hand over the land to TIDCO for establishing Petro Chemical Industrial Park at Ennore with a condition that the lessees should be paid compensation by the second respondent at the time of taking possession and the counter affidavit filed by the first respondent also supports the case of the petitioners.

7. The learned counsel for the first respondent on the basis of the statements made in the counter affidavit submitted that the petitioners are entitled to get compensation and the second respondent is bound to pay the same.

8. The learned counsel appearing for the second respondent submitted that the lease having been terminated and the petitioners having not been dispossessed by the decision taken by the Government of India, they have no right to claim compensation as they were not having any subsisting lease.

WEB COPY

9. I have considered the rival submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents.

10. The point in issue is whether the petitioners are entitled to get compensation from the second respondent.

11. It is not in dispute that the petitioners were granted lease by the first respondent for manufacturing salt and they were also given licence to manufacture salt. It is also not in dispute that the

https://hcservices.ecourts.gov.in/hcservices/

petitioners have developed the respective lands by establishing the Salt Pans and spent huge amounts. The termination of lease granted in favour of the petitioners has not become final, as all the petitioners have applied for reconsideration of cancellation of lease and that they have paid the entire rental arrears and the first respondent also issued No Due Certificate. Therefore, petitioners were in possession of their respective lands on the date when the decision was taken by the Government of India to hand over the lands, a total extent of 1434 Hectares. It is also not in dispute that the second respondent is directed to pay compensation to the persons, who are likely to be affected by virtue of handing over of possession.

12. The learned Senior Counsel for the petitioners submitted that the petitioners paid rental arrears and the first respondent issued no due certificate to all the petitioners, the same is not disputed by the learned counsel for the respondents. Therefore in the light of the stand taken by the first respondent in the counter affidavit stating that cancellation of leases of the petitioners originally, is not relevant for payment of compensation and cannot be taken advantage of by the TIDCO for withholding the compensation. The said stand taken in the counter affidavit is the specific stand of the first respondent even at the time of argument. The second respondent having given possession of the lands, cannot contend that it is not bound to pay compensation to the petitioners, particularly when the first respondent specifically stated that the petitioners are bound to get compensation, which clearly establishes the fact that the cancellation of lease granted in favour of the petitioners have not become final. Petitioners also have paid the rental arrears and the same is also not in dispute.

13. Further the compensation is given not only for enjoyment of the land, but also for the amounts spent towards developing the said land by making Salt Pans. It cannot be disputed at this stage that the petitioners have not developed the land by establishing Salt Pan as admittedly the petitioners were granted lease by the first respondent and they manufactured salt. Hence the compensation ordered to be given by the second respondent cannot be denied to the petitioners on the ground that there was no subsisting lease on the date of taking over possession. Even the second respondent has issued notice to the petitioners to hand over possession, which also proves that factual aspect of possession of the petitioners. Therefore the stand taken by the second respondent that the petitioners are not entitled to get compensation is unsustainable. In fact the first respondent by communication dated 21.6.2000 directed the second respondent to pay compensation to the licensees and the petitioners are license holders for manufacture of salt.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

14. In the result, the writ petition is allowed. The second respondent is directed to pay compensation to the petitioners for their respective lands, as fixed by the first respondent and Government of India, within a period of eight weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous petition is closed.

vr

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Deputy Salt Commissioner,
   Shastri Bhavan, Chennai - 600 006.

2. The Tamilnadu Industrial Development Corporation Ltd.,
   rep.by its General Manager, 19-A Marshalls Road,
   Egmore, Chennai - 600 008.

+ 4 cc to M/s. King and Partridge, Advocate sR Nos 28847.28848,28849,28850.
+ One cc to Mr. G. Jermiah, Advocatae sR 29385

VRK (co)
sg 8/5/07

Pre-Delivery Common Order in
W.P.No.12721 to 12723 & 12795/2000
26-4-2007

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/